



Office of the County Attorney
PO Box 1026
Key West, FL 33041-1026
305/292-3470 - Phone
305/292-3516 - Fax



BOARD OF COUNTY COMMISSIONERS

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July 5, 2006

COUNTY ATTORNEY'S REPORT - 7/19/2006

TO: Mayor McCoy & County Commissioners
County Administrator

FROM: Suzanne Hutton, County Attorney

Please be advised that I have been elected to the position of Secretary/Treasurer of the Florida Association of County Attorneys.

Attached hereto is the July Litigation Report.

July 2006 Litigation Report

To: Mayor McCoy & County Commissioners
Tom Willi, County Administrator

From: Suzanne Hutton, County Attorney

Date: July 14, 2006

Summary

Number of Cases

New cases filed since last month	4	Airports	1
Cases closed since last report	5	Constitutional Officers	7
CAY active cases	64	Engineering	7
CAY Post Judgment cases	4	Growth Management	58
Potential cases not yet filed	13	Miscellaneous	4
Outside Counsel Cases	29	Human Resources	1
		Public Works	6
Total Cases pending	74	Risk Management	6

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New Cases	Page 2
Cases Closed	3
CAY Litigation Cases Trial & Appellate Level	4
CAY Post Judgment Cases	16
Potential Cases	17
Outside Counsel Cases	20
Ferencik, Libanoff (Ira Libanoff) (4 cases)	20
Gray Robinson (Ed Scales) (1 case)	21
Johnson, Anselmo, (Bruce Johnson & Michael Burke) (14 cases)	21
Paul, Hastings (Bob Freilich & Derek Howard) (3 cases)	26
Vernis & Bowling (D.Smits, K.Willis & S.Black) (6 cases)	27

CASES FILED SINCE LAST MONTH'S REPORT

Beyer, Gordon & Molly v. Marathon v. Monroe County & State CA M 05-313
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/14/5**
Third Party claim by Marathon for takings case brought by property owners.
Growth Management/Planning **RBS**

Current Status: Third Party complaint filed 6/22/06; Mayor served 7/7/06.

Next Activity: County's responsive pleading due 7/27/6.

Time: 1.4 **Costs:** 0.00

F.K.C.C. & Last Stand v. D.C.A. & Monroe County **DOAH 06-2449GM**
DOAH **ALJ: Alexander** **Date Filed: 7/7/6**
Administrative challenge to ordinances adopting Tier system.
Growth Management/Planning **JDS/RBS**

Current Status: Reviewing petition.

Next Activity: Final hearing to be held between 8/14 – 9/21.

Time: 1.5 **Costs:** 0.00

Iervolino, Joseph v. Florida Paving & Trucking **04-15398 SP 05**
Miami-Dade Small Claims **Judge: ?** **Date Filed: 6/15/06**
Garnishment action for funds County allegedly owes Florida Paving & Trucking.
Public Works/Roads & Bridges **RBS**

Current Status: Garnishor dismissed action day after County served answer.

Next Activity: Collect attorney's fees and close file.

Time: 3.2 **Costs:** 0.00

McCole, Jeanine v. City of Marathon v. Monroe County & State CA M 05-314
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/14/5**
Third Party claim by Marathon for takings case brought by property owners.
Growth Management/Planning **RBS**

Current Statuts: Third Party complaint filed 6/20/06; mayor served 7/7/6.

Next Activity: County's responsive pleading due 7/27/6.

Time: 1.4 **Costs:** 0.00

CASES CLOSED SINCE LAST MONTH'S REPORT -- none

EEOC v. Monroe County **150-2005-03773**

EEOC – Miami **Judge: N/A** **Date Filed: 9/7/05**

Charge of disability discrimination filed by an employee.

Public Works/Human Resources **PJM**

Current Status: File closed without conciliation. Right to sue letter issued.

Next Activity: Closed.

Time: 16.6 hours

Costs: 0.00

Monroe County v. Post Buckley, Schuh, and Jernigan **CAK-95-402**

Circuit Court 16th **Judge: Payne** **Date Filed: 3/30/95**

Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.

Engineering **RBS**

Current Status: Closed.

Next Activity: Closed

Fees & Costs billed to date: \$645,991.54 + \$282,745.01 to PBSJ.

Nunziante, Marilyn v. Monroe County **CAK-04-1227**

Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**

Suit challenging Bayshore's rule requiring family members to subsidize residents.

Community Services/Social Services **RBS**

Current Status: Settled.

Next Activity: Closed.

Time: 83.7 hours

Costs: 0.00

Troy, Daniel Scott v. Monroe County **3D 05-2419**

Third DCA **Judges: TBA** **Date Filed: 10/7/05**

Appeal of denial of writ of mandamus in CA K 05-856.

Growth Management/Planning **RBS**

Current Status: Dismissed by Court for failure to file brief.

Next Activity: None.

Time: .8

Costs: 0.00

Troy, Daniel Scott v. Monroe County **CAK 05-856**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/24/05**
Mandamus action seeking after the fact building permits.
Growth Management/Planning **RBS**

Current Status: Appeal dismissed, judgment final.

Next Activity: Closed.

Time: 2.0 hours

Costs: 0.00

CAY LITIGATION – Trial & Appellate Level
See Outside Counsel Section for Cases being Handled Jointly

Accredited Home Lenders, Inc. v. Olga Ruiz & Monroe County **CA K 06-543**
16th Circuit **Judge:** **Date Filed: 5/25/06**
Mortgage foreclosure action on property County holds \$36k SHIP mortgage on.
Monroe County Housing Authority **RBS**

Current Status: County's Answer, Cross & Counterclaims filed 6/15/6.

Next Activity: Discovery.

Time: 3.9

Costs: 0.00

Aguiar, Alexander & Elizabeth Ginart v. Monroe County **CA P 06-189**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/5/06**
Appeal from decision of Code Enforcement Special Magistrate
Growth Management/Code Enforcement **PJM**

Current Status: Appellant's brief over due.

Next Activity: Move to dismiss.

Time: 0.5

Costs: 0.00

Ambrose, Thora et al v. Monroe County et al **CA P 97-636**
Circuit Court 16th **Judge: Garcia** **Date Filed: 12/11/97**
Declaratory Judgment action claiming vested rights due to subdivision plats.
Subsequent appeal of summary judgment order reversed and remanded.
Growth Management/Planning **JDS**

Current Status: Review of Court file indicates case still pending.

Next Activity: Schedule hearing on Motion to Dismiss.

M&H Billing to date: \$30,960.98.
CAY Time: 2.5

In re: Birch Telecom, Inc. **05-12237 PJW**
U.S.Bnkcty.Delaware **Judge: Walsh** **Date Filed: 8/12/05**
Bankruptcy action by pay phone vendor which claims it owes County \$4.15.
Administrative Services/Technical Services **RBS**

Current Status: Claim deadline passed 11/4/05. County's interest \$4.15.

Next Activity: None.

Time: 1.0 **Costs:** 0.00

Bond, James T. et al v. Monroe County **CA K 06-394**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/21/06**
Declaratory Judgment action seeking injunction against enforcement of flood
plain regulations on downstairs enclosure that exceeded scope of permit.
Growth Management/Building Dept./Code Enforcement **RBS**

Current Status: Settled.

Next Activity: Complete paperwork.

Time: 7.2 **Costs:** 0.00

In re: Meghan Cole **05-43879 RAM**
Bankrcty. S.D.Fla. **Judge: Mark** **Date Filed: 10/17/05**
Bankruptcy action by tenant of County property. County owed \$760.00 in rent.
Bankruptcy **RBS**

Current Status: Discovery.

Next Activity: Final approval of plan or discharge.

Time: 1.0 **Costs:** 0.00

Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services **CAK-05-617**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/05**

Complaint for unspecified damages. Mayor not served yet.

Constitutional Officer/MCSO

RBS

Current Status: Inactive.

Next Activity: None unless & until served.

Time: 0.6 hours

Costs: 0.00

D.B. Key Largo, LLC v. Monroe County Planning Comm'n **DOAH 06-484**
DOAH **Judge: Johnston** **Date Filed: 2/10/06**

Administrative appeal of planning commission denial of an application for amendment to a major conditional use permit.

Growth Management/Planning

JDS

Current Status: Held in abeyance by agreement of the parties.

Next Activity: Status report due 7/13/06.

Time: 3.3 hours

Costs: 0.00

Dorn, Kenneth & Katie Pearce v. Monroe County **CA P 06-203**
16th Circuit **Judge: Garcia** **Date Filed: 5/15/06**

Quiet title action challenging imposition of conservation easement.

Growth Management/Planning

RBS

Current Status: Exploring settlement options with plaintiffs.

Next Activity: Responsive pleading due 7/24/06.

Time: 5.1

Costs: 0.00

Eads, Barbara v. Monroe County **CAP-03-117**
Circuit Court 16th **Judge: Garcia** **Date Filed: 2/27/03**

Appeal of order finding the Lowe House to be in unsafe condition.

Growth Management/Code Enforcement

RBS

Current Status: Historic structure being renovated.

Next Activity: None at this time.

Time: 4.8 hours

Costs: 0.00

Evans, Ronald & Maryanna v. Monroe County & K.L.O.R. **CA P 06-506**
16th Circuit **Judge: Garcia** **Date Filed: 05/15/6**

Declaratory Judgment action seeking to enjoin entering into development agreement with Key Largo Ocean Resorts Co-Op, Inc.

Growth Management/Planning

RBS/JDS

Current Status: Development agreement before BOCC 6/21/06.

Next Activity: County's motion to dismiss to be heard 8/3/6.

Time: 14.2 **Costs:** 0.00

Fuchs, Walburga v. Monroe County **CAK-01-1251**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/5/01**

This is a code enforcement appeal of an OSTDS case.

Growth Management/Code Enforcement

RBS

Current Status: The Court *sua sponte* scheduled oral argument.

Next Activity: Await rescheduled date for oral argument.

Time: 11.5 hours **Costs:** 0.00

Good, Lloyd v. Monroe County **CA K 01-977**
Circuit Court 16th **Judge: Payne** **Date Filed: 8/9/01**

Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.

Growth Management/Planning

RBS

Current Status: County's motion to dismiss granted w/ leave to refile.

Next Activity: Property owner to go through BUD process.

M&H Billing to date: \$18,526.41 as of 10/31/05.

CAY Time: 18.4 **COST:** \$144.45

Graves, Frank III v. Monroe County **CA P 06-154**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/7/06**
Code Enforcement appeal
Growth Management/Code Enforcement **PJM**

Current Status: Appellant's brief over due.

Next Activity: Move to dismiss.

Time: 0.5 **Costs:** 0.00

Hardin, Michelle v. Monroe County **CA K 99-1046**
Circuit Court 16th **Judge: Miller** **Date Filed: 9/3/99**
Appeal of code enforcement decision.
Growth Management/Code Enforcement **RBS**

Current Status: Status review on pending motions.

Next Activity: File County's brief.

M&H Billing to date: \$10,241.57 thru 8/31/05.
CAY Time: 6.5

Johnson, Lloyd v. Marlene Conaway **CA K 02-1248**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/30/02**
Writ of Mandamus challenge to boundary determination.
Growth Management/Planning **JDS**

Current Status: Status report from Judge's chambers pending.

Next Activity: If needed, schedule hearing on Motion to Dismiss.

M&H Billing to date: \$2,219.62 through 8/31/05.
CAY Time: 3.4

Kalan, Suzanne v. Monroe County **CA P 03-155**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/11/03**
Inverse condemnation action.
Growth Management/Code Enforcement **RBS**

Current Status: Held in abeyance pending BUD hearing.

Next Activity: Finalize motion for substitution of counsel.

M&H Billing to date: \$2,855.77 as of 8/31/05.
CAY Time: 1.0

McIntyre, Edward v. Richard Roth & Monroe County **80-1721-CIV-WMH**
US Dist. SDFla. **Judge: Hoeveler** **Date Filed: 7/8/80**
Civil Rights action filed in 1980 over old jail facilities. Settled 12/1991.
Constitutional Officer/MCSO **RBS**

Current Status: Status report being finalized.

Next Activity: Status conference to be scheduled.

CAY Time: 13.0 **Costs:** \$86.77 (since March 2005)

Monroe County v. Matthew Bonnett **CAK-05-911**
Circuit Court 16th **Judge: TBA** **Date Filed: 9/9/5**
Code enforcement lien collection action authorized 10/17/04, \$78,000.
Growth Management/Code Enforcement **PJM**

Current Status: Discovery.

Next Activity: Discovery.

Time: 6.8 hours **Costs:** \$295.00

Monroe County v. Alain Y. Depierreffe **CAK-03-1504**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Negotiations ongoing.

Next Activity: Motion to vacate default 7/26/6.

V & B Fees billed to date: None **Costs:** 0.00
CAY Time: 6.6

Monroe County v. Alain Y. Depierreffe **CAK-03-1507**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: same as previous entry.

Next Activity: Motion to vacate default 7/26/6.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 3.5 hours

Monroe County v. Jack Hagopian **CAP 03-529**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine exceeds \$300,000.00 as of 1/1/6 and accruing at \$250.00 per day.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement agreement and check received.

Next Activity: Monitor status of compliance.

Time: 46.5 hours **Costs:** \$801.70

Monroe County v. Dorothy Hough, et al **CAP-05-160**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/6/05**
Action to collect unpaid code enforcement fine of \$61,850.00.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations ongoing.

Next Activity: Finalize settlement agreement.

Time: 16.2 hours **Costs:** \$596.00

Monroe County v. James Jeanquenat **CAP-05 317**
Circuit Court 16th **Judge: Garcia** **Date Filed: 7/18/05**
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.
Growth Management/Code Enforcement **RBS**

Current Status: Motion for Dismiss filed.

Next Activity: Motion hearing TBA.

Time: 3.7 hours **Costs:** \$275.00

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CAP-96-260**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/20/96**
Action to foreclose a code enforcement lien.
Growth Management/Code Enforcement **RBS**

Current Status: Development agreement application being reviewed.

Next Activity: Status report due with the Court 10/1/06.

Time: 41.5 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CAK-05-420**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/22/05**
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.
Growth Management/Code Enforcement **RBS**

Current Status: Guardian appointed.

Next Activity: Motion for default judgment 8/1/6.

Time: 9.0 hours **Costs:** \$555.00

Monroe County v. Mary Ellen Lloyd **CAM-03-362**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/19/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
The total amount of the lien owed to the County is \$143,500.00.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement offer to BOCC at July 2006 meeting.

Next Activity: If not settled, mediation by 8/15/06.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 5.4 hours

Monroe County v. Arthur Mehr **CAP-05-348**
Circuit Court 16th **Judge: Garcia** **Date Filed: 8/5/05**
Code fine collection action. Fine exceeds \$42,000.00.
Growth Management/Code Enforcement **RBS**

Current Status: Discovery.

Next Activity: Discovery.

Time: 13.4 hours **Costs:** \$850.00.

Monroe County v. James Messera, et al **CAK-03-1509**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Discovery.

Next Activity: Discovery.

V & B Fees billed to date: 67.3 **Costs:** \$1029.03
CAY Time: 3.0

Monroe County v. Outland Properties **CAP-05-400**

Circuit Court 16th **Judge: Garcia** **Date Filed: 9/9/5**

Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.

Growth Management/Code Enforcement **PJM**

Current Status: Defendant served.

Next Activity: Discovery.

Time: 1.6 hours

Costs: 300.00

Monroe County v. Joe Posada, III **CAK-03-1503**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Growth Management/Code Enforcement **RBS**

Current Status: BOCC approved settlement agreement 5/16/06.

Next Activity: Present agreement to Court to for final approval.

V & B Fees & Costs billed to date: None.

CAY Time: 8.6 hours

Monroe County v. Virginia Sawyer & Tony Welters **CAK-03-1505**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, move for summary judgment.

V & B Fees billed to date: None

Costs: 0.00

CAY Time: 2.0

Monroe County v. Virginia Sawyer **CAK-03-1506**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement **RBS**

Current Status: Court approved settlement agreement, injunction, lien.

Next Activity: Enforcement if not compliance.

V&B Fees & Costs billed to date: \$11,745.44

CAY Time: 6.7 hours

Monroe County v. Louis Welters **CAK-04-639**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/14/04**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, move for summary judgment.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 2.5

O'Daniel, John & Theresa Hill v. Monroe County **CA P 02-141**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/13/02**
Appeal of code enforcement action and vested rights claim.
Growth Management/Code Enforcement/Planning **JDS**

Current Status: Mandate from Third DCA received 1/13/06.

Next Activity: Status inquiry with chambers pending.

M&H Billing to date: \$42,782.73 as of 10/31/05
CAY Time: 2.5

Neumont, Elizabeth et al. v. Monroe County **99-10054-CV**
U.S. Dist. Ct., S.D.Fla. **Judge: Paine** **Date Filed: 5/21/99**
Class action challenging enactment of vacation rental ordinance.
Growth Management/Planning **RBS**

Current Status: Briefs completed.

Next Activity: None, await ruling.

M&H Billing to date: \$123,563.24.
CAY Time: 0.5

Neumont, Elizabeth et al. v. Monroe County **04-13610-X**
11th Circuit Court of Appeals **Judges: TBA** **Date Filed: 7/15/04**
Appeal of 99-10054-CV above.
Growth Management/Planning **RBS**

Current Status: Court certified question to Florida Supreme Court.

Next Activity: None in 11th Circuit until certified question answered.

CAY Time: 4.5

Oliveros, Joseph v. Ana M. Velazquez & Monroe County **CA P 06-130**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/20/06**

Quiet title action to property conveyed via tax deed.

Constitutional Officer/Clerk/Tax Collector

RBS

Current Status: County has no interest to defend in case.

Next Activity: None.

Time: 1.8

Costs: 0.00

Sierra Club, et al v. DCA, Miami Dade & City of Homestead **03-150-GM**
DOAH **Judge: Maloney** **Date Filed: 1/17/03**

County intervened in administrative challenge to amendment of Miami-Dade's comp. plan redesignating Krome Avenue to a major roadway (3 or more lanes).

Growth Management/Planning

JDS

Current Status: Petition denied.

Next Activity: BOCC directed staff not to appeal.

Billing to date: None, *pro bono*. (by former outside counsel).

CAY Time: 6.0

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CAM-04-404**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/16/04**

Declaratory judgment action over road in City of Marathon.

Public Works/Roads and Bridges

PJM

Current Status: Voluntarily dismissed by PL on 7/14/06.

Next Activity: Close file after all documents are produced.

Time: 21.9 hours

Costs: \$1,220.83.

Walgreens & Gadinsky v. Monroe County **CAK-05-266**
Circuit Court 16th **Judge: Taylor** **Date Filed: 3/11/05**

Cert. review of DOAH order upholding 1/6 findings supporting denial of major conditional use application for Big Pine Walgreens.

Growth Management/Planning

RBS

Current Status: Court approved settlement agreement 6/19/06.

Next Activity: Remanded to Planning Commission for further action.

Time: 46.6 hours

Costs: \$425.85

In re: Winn Dixie Stores, Inc. **05-03817-3F1**
U.S. Bankruptcy Ct., M.D.Fla. Judge: Jerry Funk Date Filed: 2/25/05
Voluntary Ch11 case where County *might* have a claim against the estate.
Bankruptcy RBS

Current Status: Could find no basis for filing proof of claim.

Next Activity: None needed.

Time: 0.9 hours **Costs:** 0.00

CAY POST JUDGMENT CASES

Evans, Brian v. Monroe County, et al **04-CIV-10033-JLK**
U.S.Dist.,S.D.Fla. (Miami) Judge: King Date Filed: 5/6/04
Money Judgment of \$4,579.00 in favor of County & MCSO for rule 11 sanctions.
Constitutional Officer/MCSO RBS

Current Status: \$4,579.00 in fees awarded to County & MCSO.

Next Activity: Collection.

CAY Time: 9.5 hours **Costs:** 0.00

Monroe County v. William L. Davis **CAP-04-181**
Circuit Court 16th Judge: Garcia Date Filed: 4/15/04
Money judgment of **\$27,600.00** for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement RBS

Current Status: Final judgment of \$28,431.00 recorded w/ Dept. of State.

Next Activity: Collection.

Time: 6.2 hours **Costs:** \$56.00

Monroe County v. Dan Gleason **SCP-03-165**
County Court (Sm. Claims) Judge: Ptomey Date Filed: 8/5/03
Money judgment of **\$520.00** for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement RBS

Current Status: Final judgment recorded w/ Dept. of State.

Next Activity: Collection.

Time: 9.5 hours **Costs:** \$65.92

Monroe County v. Lily Marks		CAK-03-1152
Circuit Court 16th	Judge: Jones	Date Filed: 10/2/03
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.		
Growth Management/Code Enforcement		RBS

Current Status: Final judgment entered for \$795,270.00 on 5/9/05.

Next Activity: Collection.

Time: 8.5 hours **Costs:** \$55.00

POTENTIAL CASES THAT HAVE NOT YET BEEN FILED

Assoc. for Disabled Americans & Wisniewski v. Shipsway, Inc. 06CV10034	
U.S.D.C.S.D.Fla.	Date Filed: 4/7/6
Judge: King	
ADA suit against owner and some tenants at Shipsway office building. County is a tenant but has not been named to date.	
Public Works/Facilities	RBS

Current Status: Monitoring suit since County not a party.

Next Activity: Preliminary Injunction hearing 7/18/06.

Time: 2.4 **Costs:** 0.00

Ballard, Kandi v. Bergen Trust and Monroe County		TBA
TBA	Judge: TBA	Date Filed: TBA
Personal injury case allegedly arising from County hurricane debris activity on property owned by Bergen Trust.		
Risk Management/Engineering		RBS

Current Status: Reviewing claim and information provided.

Next Activity: None until/unless suit is filed.

Time: 7.1 **Costs:** \$0.00

BOCC v. Donald Brown and Glenda Rentz **TBA**
Circuit (16th) **Judge: TBA** **Date Filed: TBA**
Code Enforcement Lien collections: BK11 Lt 9 & Lt 10 Coppit Sub
Growth Management/Code Enforcement **PJM**

Current Status: Demand letter sent.

Next Activity: File suit if no response w/in 30 days.

Time: 0.5 **Costs:** 0.00

Bott, Andrew & Donna v. City of Marathon **CA M 05-267**
Circuit Court (16th) **Judge: Payne** **Date Filed: 9/30/05**
Declaratory Judgment action challenging validity of affordable housing deed
restriction City of Marathon inherited from County at time of incorporation.
Growth Management/Planning **RBS**

Current Status: Appealed to 3rd DCA;

Next Activity: None pending appeal.

Time: 13.5 **Costs:** 0.00

Bott, Andrew & Donna v. City of Marathon **3D06-1261**
Third DCA **Judges: TBA** **Date Filed: 5/24/6**
Appeal of dismissal of declaratory judgment action over affordable housing deed
restriction the City of Marathon inherited from County when it incorporated.
Growth Management/Planning **RBS**

Current Status: Reviewing record.

Next Activity: Bott's brief due: 8/2/6

Time: .5 **Costs:** 0.00

Calusa Campground Condo v. Monroe County, et al., **TBA**
Circuit Court (16th) **Judge:** **Date Filed:**
Threatened action by condominium resulting from statements regarding platting
requirements by Growth Management personnel.
Growth Management/Planning **JDS**

Current Status: Investigating claim & preparing response.

Next Activity: Awaiting claimant's filing proper subdivision plat for approval.

Time: 2.5 **Costs:** 0.00

Cormier, Leonard **TBA**
Circuit Court (16th) **Judge: TBA** **Date Filed: TBA**
Personal injury claim arising from alleged injuries at East Martello
Risk Management/Public Works **RBS**

Current Status: Assisting Risk with investigation of claim.

Next Activity: Issue letter by 11/22/06.

Time: 0.2 **Costs:** 0.00

Good, Lloyd v. Monroe County **TBA**
Circuit Court (16th) **Judge:** **Date Filed:**
Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.
Growth Management/Planning **RBS**

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours **Costs:** \$5.56

Hamelton, Charles v. KWRU & Monroe County **CA K 04-740**
Circuit Court (16th) **Judge: Miller** **Date Filed: 7/6/04**
Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.
Public Works/Roads and Bridges/Risk Management **RBS**

Current Status: County depositions concluded; County not a party yet.

Next Activity: None scheduled.

Fees Billed to Date: 0.00 **Costs:** 0.00
CAY Time: 14.1

Lee, Vera Estate of **CP K 02-112**

Circuit Court 16th **Judge: Taylor** **Date filed: 5/14/02**

County has claim in probate case for an elderly home loan & unpaid taxes.

Housing Authority & Constitutional Officer **RBS**

Current Status: File administratively closed by the Judge; discussions with heirs on settlement ongoing

Next Activity: Re-open estate, sell property to clear all liens.

Time: 2.9

Costs:

Monroe County v. Estate of Thomas O'Brien **TBA**

Small Claims Monroe **Judge: TBA** **Date Filed:**

Action against estate to collect unpaid ambulance bill of \$861.81. Probate case is CP K 05-164.

Emergency Services/EMS **RBS**

Current Status: Settlement agreement approved by the probate court.

Next Activity: Inventory filed; Awaiting payment.

Time: 3.6

Costs: 0.00

State of Florida v. Monroe County **TBA**

TBA **Judge: TBA** **Date Filed: n/a**

AG's Medicaid Fraud unit alleges over billings for ambulance services.

Public Safety/Fire Rescue **RBS**

Current Status: Waiting over a year for AG's office to set up conference.

Next Activity: None scheduled.

Time: 9.2 hours

Costs: 0.00

Stewart, Becky v. Monroe County **TBA**

TBA **Judge: TBA** **Date Filed: TBA**

Property damage claim (\$3,287.13) arising from accident involving County vehicle in Ocala. County's claim against Stewart is \$2,487.70.

Risk Management **RBS**

Current Status: Negotiations stalled due to offsetting claims.

Next Activity: Defend suit if filed; file suit if appropriate.

Time: 1.4

Costs: \$0.00

CASES BEING LITIGATED BY OUTSIDE COUNSEL

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CAK-03-915**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/4/03**
Breach of contract and negligent misrepresentation action arising from the
defective windows in the Gato building.
Engineering/Construction Management **RBS**

Current Status: Discovery ongoing.

Next Activity: Hearing 8/1/6 on motion to amend complaint.

Fees billed to date: \$102,658.50 **Costs:** \$12,720.38 (thru 4/20/06)

Monroe County v. Jose Gonzalez **CA K TBA**
Circuit Court 16th **Judge: TBA** **Date Filed: TBA**
Possible breach of contract action against County's former architect.
Engineering/Construction Management **RBS**

Current Status: Discussions with Gonzalez

Next Activity: Schedule meeting with staff & Gonzalez.

Fees billed to Date: \$11,119.87 **Costs:** \$872.21 (thru 3/10/06)
CAY Time: 12.5

Monroe County v. Lodge Construction, et al **CAK-00-617**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/11/00**
Suit against general contractor & its surety for breach of contract.
Engineering/Construction Management **RBS**

Current Status: Motion to set before Senior Judge pending.

Next Activity: Ruling on Senior Judge motion pending & trial date to be set.

Fees billed to date: \$298,595.26 **Costs:** \$71,523.31 (thru 4/20/06).

Tropex Construction Service, Inc. v. Monroe County **CA P 06-44**

Circuit Court 16th **Judge: Garcia** **Date Filed: 1/30/06**

Breach of contract suit filed by contractor who terminated contract to build
Tavernier Fire Station before commencement of construction.

Engineering/Construction Management **RBS**

Current Status: Motion to dismiss pending.

Next Activity: Set hearing on County's motion to dismiss.

Billing Received to date: none.

CAY Time: 1.1 **Costs:** 0.00

Gray Robinson

Neumont, Elizabeth v. State & Monroe County **SC 06-1204**

Fla. Supreme Court **Judges: *en banc*** **Date Filed: 6/14/6**

Certified question from the 11th Circuit to the Florida Supreme Court seeking
guidance on proper interpretation of F.S. 125.66(4), ordinance notice provision.

Growth Management/Planning **RBS**

Current Status: Gray Robinson retained as appellate counsel; coordinating
with Florida Association of Counties to appear as *amicus curiae*.

Next Activity: Neumont's brief due by 8/7/6; MC's brief due 20 days later.

Time: 8.6 **Costs:** 0.00

Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.

Bauknight, Skaggs & Rockett v. Monroe County **CAP-04-451**

Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**

Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague
Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.

Growth Management/Planning **RBS**

Current Status: Third party complaint against State filed 1/11/06.

Next Activity: Discovery.

Fees billed to date: \$832.24 **Costs:** 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04-CV-10105**

U.S. D.C. S.Fla.

Judge: Moore

Date Filed: 11/1/04

Inverse condemnation/takings case by owners of 3 Big Pine lots.

Growth Management/Planning

RBS

Current Status: None.

Next Activity: None.

Fees billed to date: None

Costs: 0.00

Bauknight, et al. v. Monroe County

05-10868-F

11th Cir. Ct. of Appeals

Judge: TBA

Date Filed: 2/11/05

Property owners' appeal of denial of attorney's fees against the County

Growth Management/Planning

RBS

Current Status: 6/14/6 11th Circuit denied motion for rehearing. affirmed decision denying owners' fees. County awarded appellate costs.

Next Activity: None; await 90 day period for expiration of time to petition U.S. Supreme Court for certiorari review.

Fees billed to date: None.

Costs: 0.00

Florida Key Deer v. Michael Brown & Gale Norton

90-10037-CIV-Moore

U.S. Dist. Ct., SD Fla.

Judge: Moore

Date Filed: 4/2/90

ESA case that resulted in permanent injunction barring FEMA flood insurance.

Growth Management/Planning

RBS

Current Status: Injunction in place. 6/9/6, Federal defendants moved for two month extension to produce revised biological opinion and new RPAs.

Next Activity: On appeal, see 05-16374-II

Billing to Date: none

Costs: 0.00

CAY Time: 33.8

Paulson, R.D. v. Florida Key Deer, et al **05-16374-II**

11th Circuit

Judges: TBA

Date Filed: 11/10/05

Appeal of Southern District's injunction in 90-10037-CIV. County appeared as *amicus curiae* because denied intervention. See Case No.: 05-16990-II.

Growth Management/Planning

RBS

Current Status: Briefs complete.

Next Activity: Awaiting decision by Court.

Billing to date: none

CAY Time: 0.5 **Costs:** 0.00

Monroe County v. Florida Key Deer, et al **05-16990-II**

11th Circuit

Judges: TBA

Date Filed: 12/12/05

Appeal of denial of County's motion to intervene in 90-10037-CIV.

Growth Management/Planning

RBS

Current Status: Briefs complete.

Next Activity: Await decision by the Court.

Billing to Date: None

CAY Time: 1.0

Florida Key Deer, et al v. Gale Norton (Sec. of Interior) **05-10063-CIV-KING**

U.S.D.C. S.D.Fla.

Judge: King

Date Filed: 6/15/05

ESA challenge to F&WS review of construction of park on Big Pine Key.

Engineering/Construction Management

RBS

Current Status: Dismissed with prejudice by agreement on 2/13/06 because revised biological opinion satisfactory to Plaintiffs.

Next Activity: Resolve any attorneys fees & costs motions.

Fees billed to date: \$612.50

Costs: 0.00

CAY Time: 6.5

Hyland, Thomas G. v. D. Kolhage & R. Thurston **04-10102-CIV**
U.S.D.C.SD.Fla. **Judge: Highsmith** **Date Filed: 10/21/04**
Civil Rights action against Deputy Clerk of Court by inmate.
Constitutional Officer/Clerk **RBS**

Current Status: Discovery.

Next Activity: Answers to interrogatories due July 24, 2006.

CAY Time: 8.6

Fees & Costs billed to date: \$5,207.12

Hyland, Thomas G. v. Danny L. Kolhage **06-12733D**
11th Circuit (US) **Judge: TBA** **Date Filed: 5/4/6**
Appeal of dismissal of Clerk from Civil Rights suit for alleged actions of deputy clerk. Johnson, Anselmo is coverage counsel & co-counsel to CAY.
Constitutional Officer/Clerk **RBS**

Current Status: Dismissed by Court.

Next Activity: Close after hearing period expires.

Time: 1.6 **Costs:** 0.00

Billing to Date: none

FKCC & Last Stand v. FL Admin. Comm., Monroe County **DOAH 04-2756**
DOAH **Judge: Carolyn Holifield** **Date Filed: 08/05/04**
Administrative Rule challenge to partnership agreement with State.
Growth Management/Planning **RBS**

Current Status: Final Order in County's favor issued 6/29/05.

Next Activity: None pending appeal.

Fees billed to date: \$59,464.92

Costs: 0.00

CAY Time: 190.1 hours

FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al 3D05-1800

Third DCA

Judges: TBA

Date Filed: 7/28/05

Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

Growth Management/Planning

RBS

Current Status: Briefing complete.

Next Activity: Oral argument 9/20/06.

Fees billed to date: see DOAH case for fees.

CAY Time: 0.5 hours

Costs: 0.00

Hardee, Evelyn v. Monroe County

CAP-05-255

Circuit Court 16th

Judge: Garcia

Date Filed: 6/3/05

Tort action arising from alleged fall at PK Court house. Settled for \$25,000.00.

Risk Management/Public Works

RBS

Current Status: Dismissed 6/7/06.

Next Activity: Once final bill paid, close file.

Fees billed to date: \$5694.33 (thru 1/31/06).

CAY Time: 10.3 hours

Kessler, Stuart v. Monroe County & Tom Willi

CA K 05-1006

Circuit Court 16th

Judge: Jones

Date Filed: 10/11/2005

Whistle-Blower & Civil Rights claim by former employee.

Human Resources/Risk Management

RBS

Current Status: 4/11/6 Court dismissed 2 of 4 counts, 2 counts remain.

Next Activity: Depositions to be reset.

Fees & Costs billed to date: \$11,554.97 (thru 1/31/6)

CAY Time: 28.8

Neuman, Kenneth v. Monroe County **CAK-04-663**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: BOCC closed session 7/19/06.

Fees billed to date: \$2,326.92 **Costs:** 0.00
CAY Time: 5.8 hours

Riverview Consultants, Inc. v. Monroe County **CAK-05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/05**
Case alleging tortious interference with contract by airport DBE subcontractor.
Risk Management/Airports/MCSO **PJM**

Current Status: Discovery.

Next Activity: Hearing on County's motion for summary judgment 8/1/6.

Fees billed to date: \$743.86 **Costs:** 0.00
CAY Time: 13.9 hours

Paul, Hastings (Bob Freilich & Derek Howard)

Collins, Thomas, et al v. Monroe County **CAM-04-379**
Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**
Takings action brought by 11 groups of plaintiffs.
Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: Case management conference to be reset.

Total Fees billed to date: \$898,362.59 (thru 6/5/06)
CAY Time: 158.8 hours **Costs:** \$90,302.13

Emmert, Helen & Greg v. Monroe County **CA P 02-520**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/2/02**
Inverse condemnation and vested rights action.
Growth Management/Planning **RBS/JDS**

Current Status: Pleadings completed.

Next Activity: Move for summary judgment.

P, H Billing to date: None
M&H Billing to date: \$94,550.56 as of 10/31/05
CAY Time: 15.5

Galleon Bay v. Monroe County v. State of Florida **CA K 02-595**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/21/02**
Inverse condemnation and vested rights action.
Growth Management/Planning **RBS**

Current Status: Drafting settlement of Third Party complaint against State.

Next Activity: Ruling on post trial motions.

M & H Billing to date: \$54,322.5 thru 1/25/06.
Paul, Hastings Billing: \$245,016.00 **Costs:** \$3,742.59
CAY TIME: 56.5

Vernis & Bowling of the Florida Keys, P.A.

GAP Properties of SW Florida-I, Inc. v. Monroe County **CAK-04-1321**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/10/04**
Cert. review of action involving failure to obtain plat approval of dock subdivision
and an improper change of use without a major or minor conditional use permit.
Growth Management/Planning **RBS**

Current Status: None pending appeal. See below.

Next Activity: None.

Fees billed to date: \$26,875.00 **Costs:** \$306.43

GAP Properties of SW Florida-I, Inc. v. Monroe County **3D05-2413**

Third DCA **Judges:** **Date Filed: 12/10/04**

Second tier certiorari review of action involving failure to obtain plat approval of dock subdivision and an improper change of use without a major or minor conditional use permit.

Growth Management/Planning **RBS**

Current Status: Certiorari denied 4/21/06.

Next Activity: None. Close once final bill paid.

Fees billed to date: trial court costs & fees.

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry **CAK-04-224**

Circuit Court 16th **Judge: Jones** **Date Filed: 3/2/04**

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications.

Growth Management/Planning **RBS**

Current Status: Dismissed with prejudice 6/13/06.

Next Activity: Ruling on motion to reconsideration.

Fees billed to date: \$32,290.50 **Costs:** \$2,540.84

Osborn, Jeff v. Monroe County **CAP-04-564**

Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**

1 of 2 certiorari petitions challenging development approval of Northstar project.

Growth Management/Planning **RBS**

Current Status: Court denied petition 12/14/05.

Next Activity: None pending appeal.

Fees billed to date: \$14,039.50 **Costs:** \$261.49

Osborn, Jeff v. Monroe County **3D06-52**

Third DCA **Judges: TBA** **Date Filed: 1/11/06**

Certiorari appeal of CA P 04-564 on Northstar Project. V & B handling. **RBS**

Growth Management/Planning

Current Status: Oral argument heard 6/14/06.

Next Activity: Await ruling from the Court.

Billing received to date: see billings for CA P 04-564.

Osborn, Jeff v. Monroe County **CAP-04-565**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
2 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: 5/15/6 – Court denied certiorari.

Next Activity: None. Appellate period expired, 6/16/06.

Fees billed to date: \$3,920.50

Costs: \$146.93

Assigned Assistant County Attorney

PJM = Pedro Mercado

JDS = Jerry Sanders

RBS = Bob Shillinger